U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

September 16, 2016

BY ECF

The Honorable P. Kevin Castel
United States District Judge
Daniel Patrick Moynihan Federal Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: United States v. Gary Hirst,
15 Cr. 643 (PKC)

Dear Judge Castel:

The Government has the following comments on the Court's proposed jury charge:

1.) On page 10, in the section entitled "Accomplice or Cooperating Witness Testimony," the first sentence currently states, "You have heard testimony from Government witnesses who pleaded guilty to charges arising out of the same facts as this case." Although this is true with respect to Government witness Gavin Hamels, the Government expects that Albert Hallac will testify in this matter pursuant to a cooperation agreement, but his guilty pleas were to charges that did not arise out of the same facts as this case. The Government proposes adding the clause "or to charges arising out of unrelated conduct" to the end of the sentence.

2.) The section "Formal / Informal Immunity of Government Witnesses" can be removed because there are no Government witnesses who will be testifying pursuant to immunity orders or non-prosecution agreements.

3.) Because the Government is not introducing any evidence pursuant to Fed. R. Evid. 404(b), the limiting instruction for that kind of evidence on pages 20 and 21 of the proposed jury instructions can be removed.

4.) In the last sentence on page 24, the words "Counts" should be changed to "Count."

Respectfully submitted,

PREET BHARARA
United States Attorney

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